



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

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## **BUREAU OF AIR AND WASTE DIVISION OF AIR AND CLIMATE PROGRAMS**

### **Summary of Comments and Response to Comments on the Proposed Amendments to the Regulation**

**310 CMR 7.40:**

### **The Massachusetts LOW EMISSION VEHICLE PROGRAM**

**Regulatory Authority: M.G.L. c. 111, Sections 142A through 142M & M.G.L. c. 21N,  
Sections 3 and 6**

**December 2015**

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## I. SUMMARY OF RESPONSE TO COMMENTS ON 310 CMR 7.40: THE LOW EMISSION VEHICLE PROGRAM REGULATION

Comments were received from the following parties:

1. Subaru of America, Inc.
2. United States Environmental Protection Agency
3. Joint comments from Massachusetts Sierra Club, Massachusetts Energy Consumers Alliance, Environmental League of Massachusetts, Acadia Center, and Conservation Law Foundation
4. Private Citizens (Peter Papesch, Kendra Keenan, Kathleen Keenan, Denise Long, Gustavo Henrique Lutterbach, and Orié Fontaine)
5. Metropolitan Area Planning Council (MAPC)
6. ChargePoint, Inc.

The Massachusetts Department of Environmental Protection (MassDEP) proposed amendments to 310 CMR 7.40, the Low Emission Vehicle (LEV) Program regulations. In accordance with the public review process requirements of Massachusetts General Law (M.G.L.) Chapter 30A, MassDEP made the proposed amendments available for public review, published notification of the amendments, and held a public hearing in order to solicit public comment on the regulation. The public comment period ended December 4, 2015, and relevant comments have been summarized below:

1. Comment: Subaru requests clarification on whether the option to submit electronically to MassDEP follows the California Air Resources Board (ARB)'s established warranty reporting format, which Subaru has been using quarterly, or whether MassDEP has an alternate reporting format.

Response: Automobile manufacturers have the option of submitting the Executive Orders and warranty and recall reports electronically. These reports can be submitted electronically in the same format as the hard copy reports that manufacturers have been submitting to MassDEP or in the format that has been established by ARB.

2. Comment: The United States Environmental Protection Agency (US EPA) supports the adoption of the California's ZEV standard. Since the LEV program is in the Massachusetts State Implementation Plan (SIP), MassDEP "should continually update what is in its SIP."

Response: MassDEP appreciates the support.

Although Massachusetts is designated as being in attainment with national ambient air quality standards for ozone, with the exception of Dukes County, the latest ZEV revisions will ensure that emissions reductions previously achieved will be maintained to meet the air quality standards. MassDEP will update the SIP, as needed, to comply with the current ozone standard. Any revisions to the SIP undergo

public review and comment prior to adoption and submittal to the US EPA for approval.

3. Comment: Peter Papesch, joint commenters (Massachusetts Sierra Club, Massachusetts Energy Consumers Alliance, Environmental League of Massachusetts, Acadia Center, and Conservation Law Foundation), ChargePoint, Inc., and MAPC support the adoption of the California ZEV standards. The joint commenters , ChargePoint, Inc., and MAPC urge MassDEP to adopt the ZEV standards to meet the goals and the commitments of the 8-state ZEV Memorandum of Understanding to deploy approximately 300,000 electric vehicles by 2025 in order to reduce air pollutants from the mobile source sector. In addition, joint commenters and MAPC support the option for automobile manufacturers to submit California Executive Orders and warranty and recall reports electronically.

Response: MassDEP appreciates the support and recognizes the need to move forward expeditiously to finalize the regulations. The adoption of the ZEV standards will help the Commonwealth meet its air quality and Global Warming Solutions Act goals. In addition, the ZEV requirements will reduce demand for petroleum fuels and help diversify the transportation fuel market.

4. Comment: MassDEP received 5 comments from the general public (Kendra Keenan, Kathleen Keenan, Denise Long, Gustavo Henrique Lutterbach, and Orié Fontaine) supporting the adoption of the California ZEV standards and indicating the need for increasing charging stations and establishing incentives for EV purchases.

Response: MassDEP appreciates the support. MassDEP and other state agencies are committed to developing policies on charging infrastructure and other incentives.

## II. FINDINGS UNDER THE MASSACHUSETTS LOW EMISSION VEHICLE STATUTE

M.G.L. c. 111, Section 142K, requires that MassDEP adopt the state of California's motor vehicle emissions standards when it finds "that said emissions standards and a compliance program similar to the state of California's will ... achieve, in the aggregate, greater motor vehicle pollution reductions than the federal standards and compliance program for any such model year." Because there are no federal ZEV requirements, MassDEP finds that the adoption of updates to the California ZEV program will achieve greater motor vehicle pollution reductions. In addition, MassDEP is required by federal statute to amend the Massachusetts regulations so they continue to be identical to California's. These latest ZEV revisions include changes to improve administration of the ZEV program, improve competitiveness, and provide Intermediate Volume Manufacturers the flexibility needed to successfully commercialize ZEV technologies. The changes do not include any substantial changes to the environmental or implementation requirements because they do not modify the in-place fleet average emission standards, do not alter the compliance requirements of the regulated entities, and do not result in any changes that significantly affect the physical environment.

### III. REVISIONS TO PROPOSED REGULATION

MassDEP has not made any substantive revisions to the proposed regulation in the final regulation in response to public comments. Public comments consisted only of supportive comments for the regulation or requests for clarifications that do not require any change in regulatory language.

In finalizing the regulation, MassDEP has inserted the final effective date (i.e., January 1, 2016) of the recently amended ARB ZEV regulations into TABLE 310 CMR 7.40(1)(c)1. MassDEP had given notice in the public comment draft that this effective date would be inserted into the final regulation when known. In addition, MassDEP did not finalize any change to two sections of the ARB ZEV regulations (Title 13 CCR 1961 and 1961.2), which were inadvertently cited as being amended. Since those sections are not part of the sections of ARB ZEV regulations that were recently amended, the correct final effective date of August 7, 2012 is retained in the Table.